

REMARKS

Claims 1-11, 40, 41, 46, 47, 52-77, 98 and 100-118 were pending in this application and have been rejected. Claims 55, 56, 98 and 100 have been canceled. Claims 1, 3, 8, 9, 11, 40, 41, 46, 47, 62, 66, 72, 77, 102, 104, 108, and 111 have been amended. Claims 1, 3, 62, 66, 72 and 77 are independent.

The cancellation of claims 55, 56, 98 and 100 is made without prejudice to or disclaimer of the subject matter presented therein.

**The Rejections Under
35 U.S.C. § 102**

Claims 1-11, 40, 41, 46, 47, 52-77, 98 and 100-118 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. patent appln. publn. no. 2006/0253340 to Levchin et al. Applicant respectfully traverses this rejection, and submits the following arguments in support thereof.

First, it will be appreciated that the cancellation of claims 55, 56, 98 and 100 renders moot the corresponding portions of this rejection, meaning those portions of this rejection must be withdrawn.

Claim 1 is directed to a transaction system for transacting through a communication network. This transaction system has a first terminal connecting to the communication network and having an information indicating unit, and a second terminal that is at least one of a cellular telephone and a PDA and having a unique ID information, an antenna and an input unit, the second terminal being connectable to the first terminal through the communication network with the antenna. Also, there is a transaction apparatus communicating with the first and second terminals through the communication network, the transaction

apparatus storing the unique ID information of the second terminal in advance, the transaction apparatus setting up and sending a transaction ID information to the first terminal, the transaction apparatus receiving from the second terminal the unique ID information of the second terminal together with the transaction ID information, the transaction apparatus performing the transaction by synchronizing a communication with the first terminal and the second terminal when the unique ID information received from the second terminal is identical with that stored in the transaction apparatus in advance previously and when the transaction ID information received from the second terminal is identical with that set up by the transaction apparatus and sent to the first terminal. The first and second terminals send and receive messages therebetween via the transaction apparatus during synchronizing.

Claim 3 describes a transaction apparatus for transaction through a communication network with a first terminal having an information indicating unit and a second terminal that is at least one of a cellular phone and a PDA and having a unique ID information, an indicating unit, and an antenna, the second terminal being connectable to the first terminal through the communication network with the antenna. The transaction apparatus has a user database for storing the unique ID information of the second terminal in advance, a processing unit for setting up a transaction ID information to be indicated on the first terminal, a first communication unit for connecting to the first terminal via the communication network, the first communication unit sending the transaction ID information to the first terminal, and a second communication unit for connecting to the second terminal via the communication network and receiving from the second terminal the unique ID information of the second terminal together with the transaction ID information that is transmitted from the first terminal to the second terminal. The processing unit performs the transaction by synchronizing a communication with

the first and second terminals when the unique ID information received from the second terminal is identical with that stored in the user database, and when the transaction ID information received from the second terminal is identical with that set up by the transaction apparatus and sent to the first terminal. The first and second terminals send and receive messages therebetween via the transaction apparatus during synchronizing.

Claim 62 describes a method of a transaction system including a first terminal that is a vending machine, a second terminal that is at least one of a cellular phone and a PDA, and a transaction apparatus communicating with the first and second terminals through a communication network, the first terminal having an information indicating unit, the second terminal having a unique ID information, an antenna and an input unit, and the second terminal being connectable to the first terminal through the communication network with the antenna. This method involves storing the unique ID information of the second terminal in the transaction apparatus in advance, connecting the aid first terminal with the transaction apparatus through the communication network, setting up a transaction ID information in the transaction apparatus, sending the transaction ID information to the first terminal, indicating the transaction ID information in the information indicating unit of the first terminal, inputting the transaction ID information to the input unit of the second terminal, receiving from the second terminal the unique ID information of the second terminal together with the transaction ID information indicated on the information indicating unit of the first terminal, and performing the transaction by synchronizing a communication with the first and second terminals when the unique ID information received from the second terminal is identical with that stored in the transaction apparatus and when the transaction ID information received from the second terminal is identical with that set up by the

transaction apparatus and sent to the first terminal. The first and second terminals send and receive messages therebetween via the transaction apparatus during synchronizing.

Claim 66 covers a recording medium which stores a program for a computer for a transaction system including a first terminal, a second terminal that is at least one of a cellular phone and a PDA, and a transaction apparatus communicating with the first and second terminals through a communication network, the first terminal having an information indicating unit, the second terminal having a unique ID information, an antenna and an input unit, and the second terminal being connectable to the first terminal through the communication network with the antenna. The recording medium includes a storing module which stores the unique ID information of the second terminal in the transaction apparatus, a connecting module which connects the first terminal with the transaction apparatus through the communication network, a setting up module which sets up a transaction ID information in the transaction apparatus, a sending module which sends the transaction ID information to the first terminal, an indicating module for indicating the transaction ID information in the first terminal's indicating unit, an inputting module which inputs the transaction ID information to the second terminal's input unit, a receiving module which receives from the second terminal the unique ID information of the second terminal together with the transaction ID information indicated on the first terminal's information indicating unit, and a performing module which performs the transaction by synchronizing a communication with the first and second terminals when the unique ID information received from the second terminal is identical with that stored in the transaction apparatus and when the transaction ID information received from the second terminal is identical with that set up by the transaction apparatus and sent to the first terminal. The first and second terminals send and receive messages therebetween via the transaction apparatus during synchronizing.

Claim 72 is drawn to a method of a transaction apparatus for transacting through a communication network with a first terminal having an information indicating unit and a second terminal that is at least one of a cellular phone and a PDA and having unique ID information and an antenna, the second terminal being connectable to the first terminal through the communication network with the antenna. This method involves storing the unique ID information of the second terminal in advance, connecting to the first terminal via the communication network, setting up a transaction ID information to be indicated on the first terminal, and connecting to the second terminal via the communication network. The method also involves receiving from the second terminal the unique ID information of the second terminal together with the transaction ID information and inputted through the second terminal, and performing the transaction by synchronizing a communication with the first and second terminals when the unique ID information received from the second terminal is identical with that stored in advance in the user database and when the transaction ID information received from the second terminal is identical with that set up by the transaction apparatus and sent to the first terminal. The first and said second terminals send and receive messages therebetween via the transaction apparatus during synchronizing.

Claim 77 involves a recording medium which stores a program for a computer for a transaction apparatus for transacting through a communication network with a first terminal that is a vending machine having an information indicating unit and a second terminal that is at least one of a cellular phone and a PDA and having unique ID information and an antenna, the second terminal being connectable to the first terminal through the communication network with the antenna. The recording medium has a storing module which stores the unique ID information of the second terminal in advance, a setting up module which sets up a transaction ID information to

be indicated on the first terminal, a first connecting module which connects to the first terminal via the communication network, a second connecting module which connects to the second terminal via the communication network, a receiving module which receives from the second terminal the unique ID information of the second terminal together with the transaction ID information inputted through the second terminal, and a performing module which performs the transaction by synchronizing a communication with the first and second terminals when the unique ID information received from the second terminal is identical with that stored in the user database and when the transaction ID information received from the second terminal is identical with that set up by the transaction apparatus and sent to the first terminal. The first and second terminals send and receive messages therebetween via the transaction apparatus during synchronizing.

It will be appreciated that each of these claims provides that the first and second terminals send and receive messages therebetween via the transaction apparatus during synchronizing.

Applicant respectfully submits that at least the following claim features are neither disclosed in, nor are suggested by, the cited Levchin reference.

(1) The "transaction ID information" generated by (or set up in) the transaction apparatus or indicated on the first terminal (see claims 1, 3, 62, 66, 72 and 77)

(2) "said transaction apparatus ..sending the transaction ID information to said first terminal" (see claims 1, 3 (first communication unit), 62 (step of sending said transaction ID), 66 (sending module), 72 (receiving transaction ID information from the second terminal) and 77 (receiving module)).

(3) "said transaction apparatus receiving from said second terminal said unique ID information of said second terminal together with said transaction ID information" (claims 1, 3

(second communication unit), 62 (receiving step), 66 (receiving module), 72 (receiving step) and 77 (receiving module)).

(4) "said transaction apparatus performing the transaction by synchronizing a communication with said first terminal and said second terminal when said unique ID information received from said second terminal is identical to with that stored in said transaction apparatus [or user database, and, possibly, in advance previously] and when said transaction ID information received from said second terminal is identical with that set up by said transaction apparatus and sent to said first terminal" (see claims 1, 3 (processing unit", 62 ("performing the transaction" step), 66 (performing module), 72 (performing step), and 77 (performing module)).

(5) "wherein said first and second terminals send and receive messages therebetween via the transaction apparatus during synchronizing" (see claims 1, 3, 62, 66, 72 and 77).

In particular, it will be appreciated that Levchin fails to even suggest using the transaction ID information and unique ID information so as to identify the first and second terminals to be synchronized with each other as claimed. Nor does Levchin even suggest synchronizing communication between the first and second terminals as claimed.

The claimed invention involves transaction security. This is accomplished in part through the use of unique ID information identifying the second terminal and transaction ID information. Levchin provides security a different way, through the use of a security server (page 1, paragraph [0009]), a user account name and password, digital certificate, or biometric device (paragraph [0031]), or digital certificate (paragraphs [0035]-[0039]).

Insofar as Levchin speaks of using a synchronization server, it is clear that such a server only is used to process locally stored transaction data queued on one or both client

computing devices that participate in the system (data would be stored locally if the devices are unable to communicate) (paragraphs [0007], [0009], [0033], [0041]). Levchin's synchronization server has nothing to do with security or verifying the legitimacy of a party to the transaction.

For completeness, Applicant will now point out various benefits of the claimed invention; such benefits are evidence of the non-obviousness of this invention, meaning a new rejection under 35 U.S.C. § 103(a) would not be appropriate.

First, by using the transaction ID information and unique ID information as mentioned above at points (1)-(5), the first terminal (a personal computer or a cashier terminal) to be synchronized with the second terminal (a cellular telephone) can be identified securely with such a simple configuration as claimed.

Specifically, the second terminal is the user's cellular telephone or PDA, which devices are generally always carried by their users. Whether sending the unique ID information together with the transaction ID information or not is decided directly by the user of the second terminal. As a result, the security of the transaction is enhanced. Moreover, the unique ID information may be information such as the telephone number or its physical network address (MAC Address), the uniqueness of which is certificated with high security by the communication carriers or other supervisory authority. Therefore, "spoofing" or "impersonation" of the user by a wrongdoer can be prevented.

Second, the synchronization process allows the user to avoid having to register the first terminal or input any personal information (i.e., name, address, credit card number, password, etc) into the first terminal, since the second terminal can effect the authentication of the "synchronizing" by sending the unique ID information together with the transaction ID information. In other words, the user can make his desired transaction using any computer (i.e.,

a friend's computer, an employer's computer, or a publicly-accessed computer such as that at an Internet cafe or public library) without annoying input or the risk that could come from inputting personal data which might be captured by malware such as a keylogger program.

Finally, the configurations of the claimed invention can be easily applied to the existing systems and devices, since the main operation and control are carried out by the transaction apparatus. A provider who would like to implement the claimed invention has only to prepare a computer server (transaction apparatus) with the implementations as the claimed invention or software for installation on an existing computer server for the transaction. Any existing computer or cashier terminal having the information indicating unit and a function to access to the communication network can serve as the first terminal. Recently, many devices now are provided with such functions and could be adapted to serve as the first terminal. This advantageous situation is also applicable to the second terminal (PDA and cellular phone).

The claimed invention thereby provides security, convenience, and applicability, which are ordinarily mutually inconsistent and irreconcilable properties, in a way which can be achieved, with a very simple configuration.

There are substantial differences between the present invention and Levchin.

Applicant respectfully disagrees with the Office Action's assertion that all claim features are disclosed by Levchin. As mentioned above, claim features such as "using the transaction ID information and unique ID information so as to identify the first and second terminals to be synchronized with each other" and "synchronizing a communication between the first and second terminals" are not disclosed.

It is also noted that the Office Action fails to identify any structure corresponding to the claimed first terminal, meaning this feature is not anticipated or suggested.

Applicant respectfully submits that none of Levchin's Financial Sever 108, Communication Sever 104, and Security Server 110 correspond to the claimed "first terminal", since there is no reason to use the transaction ID information so as to identify these servers (i.e., as the first terminal). Furthermore, the Office Action's assertion that using the transaction ID information as claimed is disclosed in Figs. 1 and 2 and paragraphs [0007]-[0009], [0021], [0022], and [0029]-[0041] is not well-taken. In this regard, Applicant believes that the Office Action may consider the "USER B Account" shown in Fig. 3 or "Client B" shown Fig. 4 to correspond to the first terminal. However, even if that is so, it remains that these elements still to not operate as does the claimed invention.

It is clear from paragraphs [0072]-[0086] of Levchin that the "USER B Account" in Fig. 3 does not have an information indicating unit or a function to access to the communication network, as claimed.

In Fig. 4, even if "Client B" is treated as corresponding to the first terminal, "value exchange" is transmitted from Client A to Client B **directly** (step 402) not via the System Server, which is in contrast to the present invention. Furthermore, Clients A and B are not identified or authenticated by using the transaction ID information set up by the truncation apparatus and the unique ID information, which, again, is in contrast to the present invention. Therefore, there is a risk that someone could impersonate Client B.

As a result, Levchin does not offer any of the advantages discussed above.

Furthermore, as explained above, the use of the term "synchronization" in the claims is different from, and not suggested by, the term as used in Levchin.

In the present invention, "synchronizing" means that there is communication between the first and second terminals via the transaction apparatus in real time (see, for

example, page 10, line 20, of the original specification). On the other hand, "synchronization," as described at paragraphs [0009] and [0033] of Levchin involves the transmission of queued information. The "synchronization" of Levchin means that the Client A (or Client B) communicates with the system, not with Client B (or Client A), which is unrelated to the claimed "synchronizing". In Levchin each of Clients A and B is connected to the system separately and they do not communicate with each other via the server in real time.

Lastly, although the Office Action explained why the features of claim 1 allegedly were disclosed in the cited art, the Office Action did not discuss any of the other five independent claims. Instead, the Office Action only stated "[a]s per claims 2-11, 40, 41, 46, 47, 52-77, 98 and 100-118, they are not substantially different than the limitations of claim 1. In fact, they do not further limit the scope of the invention, and all their limitations are taught by Levchin" (Office Action, pg. 3).

Applicant respectfully disagrees with this characterization of these claims. At the very least, all of the other independent claims differ substantially from claim 1. To illustrate this, Applicant has prepared the claim charts set forth at Exhibit A, in which claim 1 is presented alongside each of the other independent claims. It is clear from this comparison that each of the independent claims differs substantially from claim 1, and that the Office Action therefore erred by not addressing individually each of those other independent claims.

For all the foregoing reasons, favorable reconsideration and withdrawal of this rejection are respectfully requested.

Claims 1-11, 40, 41, 46, 47, 52-77, 98 and 100-118 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. patent appln. no. 60/131,785 to Levchin et al.

Claims 1-11, 40, 41, 46, 47, 52-77, 98 and 100-118 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. patent appln. no. 60/144,633 to Levchin et al.

It will be appreciated that the cancellation of claims 55, 56, 98 and 100 renders moot the corresponding portions of both these rejections.

As previously pointed out in the Amendment filed on October 31, 2007, these provisional applications are not available as prior art under 35 U.S.C. § 102(e) because neither was published (the Office Action does not discuss or refute these arguments from the October 31 Amendment). Rejections under 35 U.S.C. 102(e) only can be based upon published applications and granted patents:

(e) the invention was described in

(1) **an application for patent, published under section 122 (b)**, by another filed in the United States before the invention by the applicant for patent or

(2) **a patent granted** on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351 (a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language

(emphasis added).

Since provisional applications are never published, and do not mature into patents, they cannot be applied in a § 102(e) rejection.

To the extent the teachings of the cited provisional application were incorporated by reference into the cited Levchin published patent application discussed above, Applicant already has explained why the claimed invention patentably distinguish over that reference. Accordingly, these rejections are not well take for the same reasons as have already been given

with regard to the Levchin '340 publication, which reasons are incorporated by reference herein. That is, the Levchin provisional applications fails to identically disclose or even suggest features {1} - (5) discussed above beginning at page 24.

Accordingly, favorable reconsideration and withdrawal of this rejection are respectfully requested.

CONCLUSION

Applicant respectfully submits that all outstanding rejections have been addressed and are now overcome. Applicant further submits that all claims pending in this application are patentable over the prior art.

No fees are believed to be due in connection with the filing of this paper. Nevertheless, should the Commissioner deem any fee(s) to be now or hereafter due in connection with this application, authority is given to charge all such fees to Deposit Account No. 19-4709.

In the event that there are any questions, or should additional information be required, please contact Applicant's attorney at the number listed below.

Respectfully submitted,

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